

IN THE UNITED STATES DISTRICT COURT

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

FOR THE DISTRICT OF NEW MEXICO

JAN 24 2002

AMERICAN GYPSUM COMPANY,

Plaintiff,

Robert M. Marsh
CLERK

v.

Civil No. 01-787 WJ/RLP ACE

BLACK BEAR GYPSUM SUPPLY, INC.,
a/k/a BEST NW and GINA M. MILINOVICH,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court upon Plaintiff's Motion to Strike All Pleadings by Defendant, filed August 17, 2001 (Doc. 6) and Plaintiff's Motion for Sanctions, filed September 21, 2001 (Doc. 11). The motion to strike is based on Defendants' failure to comply with the local rule requiring nonresident attorneys to associate with a resident member of the Federal bar. D.N.M.LR-83.3. The motion will be denied as moot, since Defendants' local counsel filed an entry of appearance on August 31, 2001 (Doc. 8).

Defendants correctly observe that the motion for sanctions is nothing more than a thinly disguised copy of Plaintiff's response (Doc. 9) to Defendants' "Motion to Dismiss, or in the Alternative, For More Definite Statement." This Court granted Defendants' motion on the alternative basis, requiring Plaintiff to file an amended and more definite pleading within 45 days of the Order.¹ It should be obvious that the Court's Order undercuts any rationale for

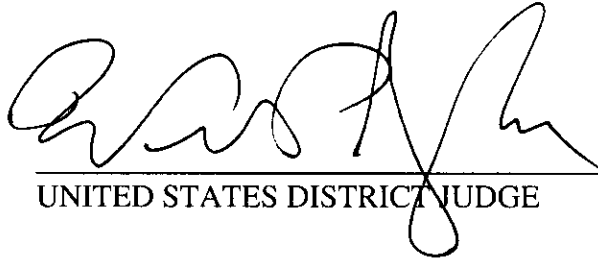
¹ The Hon. Martha Vazquez entered the Order on September 21, 2001 (Doc. 10). Plaintiff filed an amended complaint on October 1, 2001 which Defendants have already answered (Docs. 14, 16).

Plaintiff's request for sanctions.

WHEREFORE,

IT IS ORDERED that Plaintiff's Motion to Strike All Pleadings by Defendant (Doc. 6) is hereby DENIED;

IT IS FURTHER ORDERED that Plaintiff's Motion for Sanctions (Doc. 11) is hereby DENIED.



UNITED STATES DISTRICT JUDGE